

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health
vs.

Petition No. 2002-0131-011-002

Mary Mercier, L.P.N
Licensed Practical Nurse License No. 020035
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges dated February 14, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Mary Mercier (hereinafter "respondent"), which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated March 15, 2002, scheduling a hearing for June 19, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent on March 19, 2002.

The hearing took place on June 19, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Transcript, June 19, 2002, pp. 2-3.

Respondent did not file an Answer to the Statement of Charges. During the hearing the Department filed a Motion to Deem Allegations Admitted. Board Exh. 1. The Board granted the Department's motion. Transcript, June 19, 2002, p. 4.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license 020035 on February 1, 1989. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1C; Dept. Exh. 2-A, p. 2.
2. Beginning on or about February 8, 1999, respondent was employed as a licensed practical nurse at Olympus Healthcare Center, Farmington, Connecticut. Dept. Exh 2-A, p. 2.
3. From on or about July 27, 1999 to August 3, 1999, while working as a licensed practical nurse at Olympus Healthcare Center, respondent failed to give ordered administrations of the medications Lanozin, Cardizem, and Coumadin to patients. Dept. Exh 2-A, p. 2.
4. Pursuant to a Memorandum of Decision in petition number 991223-011-041 (hereinafter "the 2001 Order") dated July 18, 2001, the Board placed respondent's licensed practical nurse license on probation for a period of four (4) years. Such disciplinary action was based upon respondent's failure to give ordered administrations of medications. Dept. Exh. 1; Dept. Exh. 2-A.
5. The 2001 Order required that respondent successfully complete a Board approved licensed practical nurse refresher program on or before November 1, 2001, with documentation submitted to the Board within thirty (30) days of the program's completion. Respondent was reminded of this requirement in a letter dated July 20, 2001, to which she failed to respond. Respondent failed to comply with this requirement of the 2001 Order. Dept. Exh. 1; Dept. Exh. 2; Dept Exh. 2-B.
6. The 2001 Order further required respondent to successfully complete forty (40) hours of one-on-one supervised medication administration on or before November 1, 2001, with certification of successful completion submitted to the Board. Respondent was reminded of this requirement in a letter dated July 20, 2001, to which she failed to respond. Respondent failed to comply with this requirement of the 2001 Order. Dept. Exh. 1; Dept. Exh. 2; Dept Exh. 2-B.
7. On August 17, 2001, the Department phoned respondent, who stated that no one would hire her and that she did not want to take a refresher program if she could not find a job. Respondent was advised, that at a minimum, she must complete the refresher program by November 1, 2001, or risk being in violation of the Board's Order. Respondent was asked to call the Department with her decision. Respondent never contacted the Department in response to this request. Dept. Exh. 2.
8. In a letter dated December 12, 2001, respondent was asked to provide the Department with a status report of her intentions regarding the required refresher program. Additionally, on that same day and again on January 3, 2002, a voice mail message was left on respondent's home phone asking the same question. Respondent did not respond. Dept. Exh. 2; Dept. Exh. 2-C.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Mary Mercier held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The Statement of Charges alleges that respondent violated the terms of probation of her licensed practical nurse license as ordered pursuant to the Memorandum of Decision dated July 18, 2001. It is alleged that respondent failed to successfully complete a Board approved licensed practical nurse refresher program and failed to successfully complete forty (40) hours of one-on-one supervised medication administration during the first three (3) months of the probationary period.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Statement of Charges to be admitted.

Based on its findings, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes a violation of the probation set forth in the Memorandum of Decision dated July 17, 2001, and therefore, is grounds for disciplinary action pursuant to *Conn. Gen. Stat.* § 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for the Statement of Charges dated February 14, 2002, respondent's licensed practical nurse license, number 020035, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Mary Mercier, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 6th day of November 2002.

BOARD OF EXAMINERS FOR NURSING

By Nancy S. DeFurda